IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.7578 of 2005

Uttam N Pawar .Petitioner

vs

Ramchandra H Pawar & ors..Respondents

Mr Kuldeep S Patil for petitioners

Mr. R.V.More for respondents

CORAM: S.U.KAMDAR J.

Dated 8.l2.2005

P.C:

. By the present petition the order dated 22.7.2005 passed by the 3rd Addl District Judge Sangli in appeal no. l27 of l999 is challenged. Originally the suit was filed for partition of the family property which included gat nos.l023 and l027. The trial court has, by a decree, directed that the said joint family property should be divided . The matter is at the appellate stage against the final decree of partition. In appeal proceedings petitioner is seeking to amend the written statement being Exh 75 before the trial court inter alia claiming that the said property as his personal property. The joint family property being already the subject matter of the suit which was decided on the basis of the rival contentions of the parties and decree having been passed that

the suit property is to be partitioned, it is not permissible now at the appellate stage of the proceedings to contend that the said property is private property and seek to reopen the trial which is concluded by passing a decree. In that view of the matter there is no infirmity in the impugned order passed by the appeal court and the application for amendment is rightly rejected. Petition is accordingly dismissed with no order as to costs.